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7  
8 **BEFORE THE**  
**CALIFORNIA BOARD OF ACCOUNTANCY**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

11 ELSIE LEUNG  
12 P.O. Box 472  
Pasadena, CA 91102

13  
14 Certified Public Accountant License No. CPA  
18984

15  
16 Respondent.

Case No. AC-2006-19

**DEFAULT DECISION  
AND ORDER**

[Gov. Code, §11520]

17 **FINDINGS OF FACT**

18 1. On or about July 25, 2006, Complainant Carol Sigmann, in her official  
19 capacity as the Executive Officer of the California Board of Accountancy (Board), Department of  
20 Consumer Affairs, filed Accusation No. AC-2006-19 against ELSIE LEUNG (Respondent)  
21 before the Director of Consumer Affairs.

22 2. On or about June 22, 1973, the Board issued Certified Public Accountant  
23 License No. CPA 18984 to Respondent. The license expired on July 1, 2006, and has not been  
24 renewed.

25 3. On August 10, 2006, Rebeca Garcia, an employee of the Department of  
26 Justice, served, by Certified and First Class Mail, a copy of Accusation No. AC-2006-19,  
27 Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code  
28 sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board, which

1 was and is:

2 P.O. Box 472  
3 Pasadena, CA 91102

4 A copy of the Accusation, the related documents, and Declaration of Service are  
5 attached as exhibit A, and are incorporated herein by reference.

6 4. Service of the Accusation was effective as a matter of law under the  
7 provisions of Government Code section 11505, subdivision (c).

8 5. Government Code section 11506 states, in pertinent part:

9 "(c) The respondent shall be entitled to a hearing on the merits if the respondent  
10 files a notice of defense, and the notice shall be deemed a specific denial of all parts of the  
11 accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of  
12 respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing."

13 6. Respondent failed to file a Notice of Defense within 15 days after service  
14 upon her of the Accusation, and therefore waived her right to a hearing on the merits of  
15 Accusation No. AC-2006-19.

16 7. California Government Code section 11520 states, in pertinent part:

17 "(a) If the respondent either fails to file a notice of defense or to appear at the  
18 hearing, the agency may take action based upon the respondent's express admissions or  
19 upon other evidence and affidavits may be used as evidence without any notice to  
20 respondent."

21 8. Pursuant to its authority under Government Code section 11520, the Board  
22 finds Respondent is in default. The Board will take action without further hearing and, based on  
23 Respondent's express admissions by way of default and the evidence before it contained in exhibit  
24 A, finds that the allegations in Accusation No. AC-2006-19 are true.

25 9. The total costs for investigation and enforcement are \$5038.48 as of  
26 October 12, 2006.

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1 DETERMINATION OF ISSUES

2 1. Based on the foregoing findings of fact, Respondent ELSIE LEUNG has  
3 subjected her Certified Public Accountant License No. CPA 18984 to discipline.

4 2. A copy of the Accusation is attached.

5 3. The Board has jurisdiction to adjudicate this case by default.

6 4. The Board is authorized to revoke Respondent's Certified Public Account  
7 License based upon the following violations alleged in the Accusation:

8 a. Respondent is subject to disciplinary action under section 5100  
9 subdivisions (h) and (l) of the Business and Professions Code ("Code") in that on or about  
10 February 28, 2006, the United States Securities and Exchange Commission (SEC) issued an order  
11 suspending Respondent from appearing or practicing before the SEC.

12 ORDER

13 WHEREFORE, for the aforesaid causes the following order is made:

14 Certified Public Accounting license No. CPA 18984 issued to ELSIE LEUNG is revoked.

15 Pursuant to Government Code Section 11520, respondent may, within seven (7) days after  
16 service of this decision on the respondent, serve a written motion requesting that this decision be  
17 vacated and stating the grounds relied on. Said written motion shall be sent to California Board  
18 of Accountancy, 2000 Evergreen Street, Suite 250, Sacramento, CA 95815-3832. The Board, in  
19 its discretion, may vacate this decision and grant a hearing on a showing of good cause.

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21 The Decision shall be ~~in~~ effective on January 7, 2007.

22 DATED: December 8, 2006.

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24   
25 CALIFORNIA BOARD OF ACCOUNTANCY  
26 DEPARTMENT OF CONSUMER AFFAIRS  
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Exhibit A  
Accusation No.AC-2006-19,  
Related Documents and Declaration of Service

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10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. AC-2006-19

12 ELSIE LEUNG  
13 P.O. Box 472  
Pasadena, CA 91102

OAH No.

**A C C U S A T I O N**

14 Certified Public Accountant License No. CPA  
15 18984

16 Respondent.

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18 Complainant alleges:

19 **PARTIES**

20 1. Carol Sigmann (Complainant) brings this Accusation solely in her official  
21 capacity as the Executive Officer of the California Board of Accountancy (Board), Department of  
22 Consumer Affairs.

23 2. On or about June 22, 1973, the Board issued Certified Public Accountant  
24 License No. CPA 18984 to Elsie Leung (Respondent). The license was not in full force and effect  
25 at all times relevant to the charges brought herein against Respondent. And, now, as of July 1,  
26 2006, Respondent's license is expired and not valid.

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JURISDICTION

3. This Accusation is brought before the Board, Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 5100 states:

"After notice and hearing the board may revoke, suspend or refuse to renew any permit or certificate granted under Article 4 (commencing with Section 5070) and Article 5 (commencing with Section 5080), or may censure the holder of that permit or certificate for unprofessional conduct which includes, but is not limited to, one or any combination of the following causes:

.....

"(h) Suspension or revocation of the right to practice before any governmental body or agency."

.....

"(l) The imposition of any discipline, penalty, or sanction on a registered public accounting firm or any associated person of such firm, or both, or on any other holder of a permit, certificate, license, or other authority to practice in this state, by the Public Company Accounting Oversight Board or the United States Securities and Exchange Commission, or their designees under the Sarbanes-Oxley Act of 2002 or other legislation."

5. Section 5109 states:

"The expiration, cancellation, forfeiture, or suspension of a license, practice, privilege, or other authority to practice public accountancy by operation of law or by order or decision of the board or a court of law, or the voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction to commence or proceed with any investigation of or action or disciplinary proceeding against the licensee, or to render a decision suspending or revoking the license."

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6. Section 5107 provides, in pertinent part, that the Board's Executive Officer may request the administrative law judge, as part of the proposed decision in a disciplinary proceeding, to direct any holder of a permit or certificate found to have committed a violation or violations of this chapter to pay to the Board all reasonable costs of investigation and prosecution of the case, including, but not limited to, attorney's fees. The board shall not recover costs incurred at the administrative hearing.

FIRST CAUSE FOR DISCIPLINE

(Suspension)

7. Respondent is subject to disciplinary action on the grounds of unprofessional conduct as defined in section 5100, subdivisions (h) and (l), by reason of the following:

a. On or about February 28, 2006, the United States Securities and Exchange Commission ("SEC") issued an order suspending Respondent from appearing or practicing before the SEC as stated in the Administrative Proceeding, File No. 3-12222 entitled, In the Matter of Elsie M. Leung, CPA. The facts and circumstances are as follows:

b. Respondent was the Chief Financial Officer of Gemstar-TV Guide International, Inc. ("Gemstar") from 1994 to November 7, 2002; a Co-President from July 2000 to November 7, 2002; Chief Operating Officer or a Co-Chief Operating Officer from January 1996 to November 7, 2002; and a director from 1994 to May 2003. In November 2002, Respondent resigned as an officer of Gemstar. On July 13, 2004, the SEC filed a Third Amended Complaint against Respondent in SEC v. Henry C. Yuen, et al. (Case No. CV 03-4376 MRP (PLAx)) that alleged, among other things, that Respondent (i) touted that Gemstar's current and future growth would come from licensing technology to third parties and selling advertising on a new media platform; (ii) caused Gemstar to improperly record licensing and advertising revenue; (iii) caused Gemstar to fraudulently overstate its revenues by \$223.3 million in Gemstar's periodic filings with the SEC, analysts calls, and the press releases, which resulted in Gemstar's overstating its licensing revenue by 57.4% and its advertising revenue by 278.1% which enabled Gemstar to meet its projected financial results; (iv) misrepresented and/or omitted to disclose the actual

1 structure of certain Gemstar transactions and that a substantial amount of licensing and  
2 advertising revenue was being created through fraudulent schemes in Gemstar's periodic filings  
3 with the SEC, analysts calls, and press releases; and (v) omitted to disclose material information  
4 to Gemstar's independent auditors regarding the structure of certain transactions during the  
5 auditors' 2001 quarterly reviews.

6 PRAYER


7 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
8 alleged, and that following the hearing, the California Board of Accountancy issue a decision:

9 1. Revoking or suspending Certified Public Accountant License No. CPA  
10 18984, issued to Elsie Leung.

11 2. Ordering Elsie Leung to pay the California Board of Accountancy the  
12 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
13 Professions Code section 5107;

14 3. Taking such other and further action as deemed necessary and proper.

15 DATED: July 25, 2006  
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CAROL SIGMANN  
19 Executive Officer  
20 California Board of Accountancy  
21 Department of Consumer Affairs  
22 State of California  
23 Complainant  
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